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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,245	09/18/2003	Masahiko Takenaka	14470.0009US01	6966
7590 12/29/2005			EXAMINER	
Hamre, Schumann, Mueller & Larson, P.C. P.O. Box 2902-0902 Minneapolis, MN 55402			AVERY, BRIDGET D	
			ART UNIT	PAPER NUMBER
			3618	
DATE MAILED: 12/29/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/665,245		TAKENAKA ET AL.	
	Examiner		Art Unit	
	Bridget Avery		3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1 and 3-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
2. In claim 1, applicant's recitation of "approximately equal to or exceeding 90 degrees" is indefinite.

In light of applicant's arguments filed on 10/05/05, it is suggested that applicant amend the claim to recite "about".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3, 4, 6-9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Kawano (US Patent 4,700,799). Kawano teaches a structure similar to applicant's including:

- A longitudinal V-type engine (4) mounted below a low floor (5d)

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- A diamond-type body frame (7-9, 24-28, 42) including a head pipe (24)
- The engine (4) including a front cylinder (4a) and a rear cylinder (4b)
- The banking angle between the front cylinder (4a) and the rear cylinder (4b) is approximately 90 degrees
- The engine (4) is arranged with the bisector of the banking angle directed toward the head pipe (24)
- The front cylinder (4a) extends in front of a pair of right and left down frames (41)
- The rear cylinder (4b) is between the right and left upper frames (42)
- A fuel tank (21)
- An air intake system (note teaching of an air cleaner and an air cleaner case 19, as described in column 4, lines 66-68 and column 5, lines 1-3)
- Means for lowering the engine (4) below the low floor (5d), as shown in Figure 3
- The engine (4) adds strength to the body frame (7-9, 24-28, 42)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawano ('799) in view of Shinozaki (US Patent 4,440,255).

Kawano teaches the features described above.

Kawano lacks the teaching of an air intake system arranged between a front and a rear cylinder and a fuel tank arranged above the intake system.

- Shinozaki teaches a two-wheeled vehicle including an air intake system arranged in a fairing member; and a fuel tank arranged above the intake system

Based on the teachings of Shinozaki, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to modify the structure of Kawano to include an air intake system arranged in a fairing member to be between engine cylinder and move the fuel tank to be arranged above the intake system to effectively direct ram air to the engine.

5. Claims 1, 3, 4 and 6-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsuboi (US Patent 4,706,774) in view of Kawano ('799).

Tsuboi teaches a structure similar to applicant's including:

- A longitudinal V-type engine (6)
- A diamond-type body frame (3, 4) including a head pipe (2)
- The engine (6) including a front cylinder (62) and a rear cylinder (63)
- The banking angle between the front cylinder (62) and the rear cylinder (63) is approximately 90 degrees

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- The engine (6) is arranged with the bisector of the banking angle directed toward the head pipe (2)
- The front cylinder (62) extends in front of a pair of right and left down frames (4)
- The rear cylinder (63) is between the right and left upper frames (3)
- The engine (6) adds strength to the frame (3, 4)
- A crankcase (61)
- The right and left down frames (4) are coupled at (41) to the front of the crankcase (61)

Tsuboi lacks the teaching of a low floor.

Kawano teaches a low floor (5d)

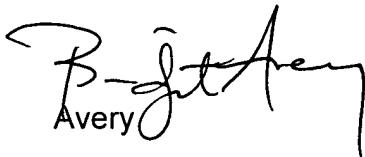
Based on the teachings of Kawano, it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to add a low floor to the structure of Tsuboi to effectively secure the strength and rigidity of the engine on the vehicle.

Response to Arguments

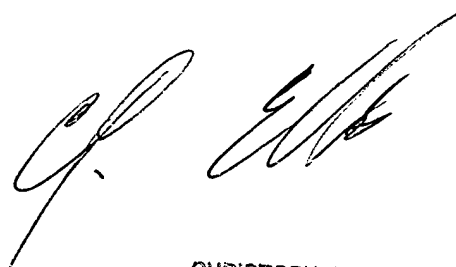
Applicant's arguments filed 10/05/05 and 11/21/05 have been fully considered but they are not persuasive. Contrary to applicant's arguments, Kawano teaches a diamond-type body frame (7-9, 24-28, 42) including a head pipe (24). Attachment member (3) is clearly connected to head pipe (24) via link member (31).

Conclusion

6. Any inquiry concerning this communication should be directed to Bridget Avery at telephone number 571-272-6691.


Avery

December 21, 2005



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